

[ORAL ARGUMENT NOT YET SCHEDULED]
No. 15-1074

In the United States Court of Appeals
for the District of Columbia Circuit

AMPERSAND PUBLISHING, LLC, D/B/A SANTA BARBARA NEWS-PRESS,
Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

On Petition for Review of an Order
of the National Labor Relations Board

PETITIONER'S MOTION TO EXCEED WORD LIMITS

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To the Clerk of the United States Court of Appeals for the District of Columbia Circuit:

Ampersand Publishing, LLC, d/b/a Santa Barbara News-Press (“the News-Press”), through its counsel of record, hereby submits this Unopposed Motion to Exceed Word Limits pursuant to D.C. Circuit Rules 28 and 32. The News-Press has sought the position of Respondent National Labor Relations Board (the “Board”) and Intervenor Graphics Communications Conference International Brotherhood of Teamsters (“the Union”) on this motion. On January 17, 2016, Counsel for the Board indicated his client would oppose. AmperAs of filing, the Union has not responded.

Under D.C. Circuit Rule 32(a), briefs filed in the D.C. Circuit shall not exceed 14,000 words unless the Court grants a motion to exceed that limit. Although the Court disfavors expanding the word limit, see D.C. Cir. R. 28(f)(1), this case presents the extraordinary situation in which it is appropriate to authorize the News-Press to exceed the limit.

Extending the word limit is appropriate in complex cases challenging multi-year administrative agency proceedings. For example, in *Transmission Access Policy Study Group v. FERC*, 1998 WL 633827 (D.C. Cir. 1998) (unreported), the Court permitted briefs of 22,000 words and 20,000 words. In *Saco River Cellular, Inc. v.*

FCC, 1997 WL 404933 (D.C. Cir. 1997) (unreported), the Court permitted a brief of up to 18,250 words. In this case, allowing the News-Press to submit a longer brief will facilitate, rather than complicate, the Court's resolution of the case. This case involves a complex labor dispute spanning more than ten years and involving dozens of separate allegations of unfair labor practices and failure to bargain in good faith. This case also raises important questions of constitutional law regarding the interaction of the National Labor Relations Act ("the Act") with the First Amendment.

The Board's consolidation of 15 individual cases before the agency below necessarily resulted in a complex case with a voluminous (and often confusing) record. Indeed, over the years, this case generated many thousands of pages of transcripts, pleadings, decisions, and exhibits. The hearing case lasted 21 days and consumed 3,427 pages of transcript. The parties submitted 2 joint exhibits; approximately 369 General Counsel exhibits (including rejected); 32 Union exhibits; and approximately 241 News-Press exhibits (including rejected). And the recurring grant of motions to exceed page limits in the agency proceedings below resulted in briefs regularly approaching 200 pages.

What's more, the 15 charges—which each included multiple alleged violations of the Act—did not emerge from a common set of

facts. Rather they were 15 individual cases based on 15 factually distinct incidents. The Court must hear the facts and arguments relevant to each specific violation of the Act. But, in order to meet the word limit, the News-Press must purge critical information from its brief, compromising the Court's understanding of the case.

The News-Press intends to summarize concisely the history of the administrative proceedings below and to challenge only the most arbitrary decisions of the Board. Indeed, the News-Press has substantially pared down the statement of issues on appeal. Specifically, the News-Press is now concerned with only four major issues, instead of the nine issues spanning almost thirty pages that were initially identified on April 30, 2015. Even so, the News-Press still must brief several complex legal issues and describe the relevant factual background giving rise to each.

In light of these considerations, the News-Press respectfully requests that the Court order that the News-Press' opening brief not exceed 20,000 words and that its reply brief not exceed 10,000 words. Corresponding adjustments to the permissible lengths of the Board and the Union's briefs would also be appropriate.

Date: January 18, 2016

MICHEL & ASSOCIATES, P.C.

/s/C. D. Michel

C. D. Michel
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2016, an electronic PDF of Petitioner's Motion to Exceed Word Limits was uploaded to the Court's CM/ECF system, which will send notice of filing to counsel for all participants in the case who are registered CM/ECF users:

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